

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN FRANK,

Plaintiff,

v.

Case No. 2:23-cv-10261
Hon. Brandy R. McMillion

MICHELLE FLOYD,

Defendant.

**ORDER ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF NO. 40) AND GRANTING DEFENDANT
MICHELLE FLOYD'S MOTION FOR SUMMARY
JUDGMENT (ECF NO. 34)**

Pro se plaintiff Kevin Tracy Frank (“Frank”), a prisoner under the jurisdiction of the Michigan Department of Corrections (“MDOC”), brings this action against defendant Michelle Floyd (“Floyd”) for violation of his Eighth Amendment rights. ECF No. 1. Frank alleges that Floyd, warden of the MDOC’s Cooper Street Correctional Facility (“JCS”) where Frank is imprisoned, displayed deliberate indifference to his physical and mental health when she failed to take action to repair the broken ventilation system of his cell block at JCS. *Id.*

On November 18, 2024, Floyd moved for summary judgment. *See* ECF No. 34. Frank responded to the motion for summary judgment on December 10, 2024, ECF No. 37, and Floyd replied in support of her motion on December 17, 2024, ECF

No. 38. This matter was referred to Magistrate Judge Anthony P. Patti for all pretrial matters. ECF No. 23.

On May 30, 2025, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the Court grant Floyd’s Motion for Summary Judgment. ECF No. 40. At the end of the R&R, the Magistrate Judge advised the parties that to seek review of his recommendation, they had to file specific objections with the Court within 14 days of service of the R&R. *Id.* at PageID.536-537. As of the date of this order, June 26, 2025—27 days since the Magistrate Judge issued the R&R—neither party has filed objections to the R&R or contacted the Court to ask for more time to file objections.¹ The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also Ivey v. Wilson*, 832 F.2d 950, 957-58 (6th Cir. 1987) (explaining that a party’s failure to timely object to a report and recommendation allows a court to accept the recommendation “without expressing any views on the merits of the magistrate’s conclusions”). Similarly, failure to object to an R&R forfeits any further right to appeal. *See Berkshire v. Dahl*, 928 F.3d 520, 530 (6th Cir. 2019) (recognizing that a party forfeits their right to appeal by failing to timely file objections to an R&R).

¹ On June 7, 2025, Attorney Betram L. Marks filed an appearance on behalf of Kevin Frank. *See* ECF No. 41. Despite this appearance, nothing has been filed in this matter regarding the R&R.

Accordingly, because neither party objected to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommended disposition of Floyd's motion is **ADOPTED**.

IT IS FURTHER ORDERED that Floyd's Motion for Summary Judgment (ECF No. 34) is **GRANTED**.

This is a final order that closes the case.

IT IS SO ORDERED.

Dated: June 26, 2025

s/Brandy R. McMillion

Brandy R. McMillion
United States District Judge